

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS INC.,)	
)	
Plaintiff,)	Civil Action No. 3:09-CV-620 (REP)
)	
v.)	
)	
LAWSON SOFTWARE, INC.,)	
)	
)	
)	
Defendant.)	

**PLAINTIFF ePLUS INC.’S MOTION TO STRIKE
THE EXPERT REPORTS OF PRESTON STAATS AND KEITH KNUTH**

Plaintiff ePlus, Inc. (“ePlus”) respectfully requests that the Court strike: (1) Dr. Preston Staats’s expert report concerning invalidity; and (2) Mr. Keith Knuth’s expert report concerning source code. ePlus also seeks an order precluding Dr. Staats and Mr. Knuth from testifying at trial. In contravention of this Court’s ruling on Defendant’s Motion *in Limine* No. 5, Defendant has proffered overlapping testimony on issues on which Defendant never suffered any disadvantage because it already had disclosed expert testimony on those issues.

Dr. Staats’s report disclosed opinions on the same theories of anticipation and obviousness on which Lawon’s previously disclosed expert concerning invalidity – Dr. Michael I. Shamos – opined, but with substantially different reasoning. Defendant now intends to substitute Dr. Staats’s testimony on these anticipation and obviousness theories for Dr. Shamos’s existing opinions on these theories which have, over the last four months, formed the basis of Defendant’s invalidity contentions and the parties’ trial preparations.

Mr. Knuth's report disclosed opinions that Defendant's current infringing systems do not infringe the patents-in-suit because they are substantially the same as older legacy versions of Defendant's systems – systems which the Court has already ruled are not relevant to the issue of non-infringement. Mr. Knuth's report is also replete with opinions regarding invalidity that both overlap with Dr. Shamos's previously disclosed invalidity opinions and that exceed the scope of the opinions concerning the operation of Defendant's infringing source code that were rendered by ePlus's own source code expert.

ePlus, therefore, respectfully request that the Court the expert reports of Dr. Staats and Mr. Knuth, and preclude them from testifying at trial.

Respectfully submitted,

August 30, 2010

/s/

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of August, 2010, I will electronically file the foregoing

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with the Clerk of Court using the CM/ECF system which will then send a notification of such filing (NEF) via email to the following:

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